

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

November 12, 2008

In the Matter of
Pine Creek Development Corp.

Docket No. 2003-107
DEP File No. 240-370
Norfolk

RECOMMENDED FINAL DECISION

INTRODUCTION

In this case, the petitioner Joanne Yatsuhashi, has appealed a Superseding Order of Conditions (“SOC”) that the Metropolitan Boston/Northeast Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued in August 2003 to the applicant Pine Creek Development Corp. (“the applicant” or “Pine Creek”). The Department issued the SOC under the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 (“MWPA”), and the Wetlands Regulations at 310 CMR 10.00, et seq. in connection with Pine Creek’s proposed residential subdivision project on real property located off Rockwood Road, Juniper Lane, Old Colony Drive, and Village Green in Norfolk,



Massachusetts (“the Site”).¹ The applicant proposes to develop a 14 lot residential subdivision at the Site (“the Project”). See Pre-Hearing Statement of Applicant and Department, July 3, 2008, at pp. 1-5.

I recommend that the Department’s Commissioner issue a Final Decision dismissing this appeal due to the petitioner’s (1) failure to file Pre-filed testimony in support of her claims, See 310 CMR 1.01(10); 310 CMR 1.01(11)(a)2.f, and (2) failure to “establish [that] the [Respondents’] agreement [to resolve this appeal in the manner that they have proposed] is inconsistent with law.” See 310 CMR 1.01(8)(c).²

PRIOR PROCEEDINGS

On July 8, 2008, I conducted a Pre-Screening Conference with the parties to this appeal in accordance with 310 CMR 1.01(5)(a)15, and a Scheduling Order that I issued to the parties on May 28, 2008.³ The purpose of the Pre-Screening Conference was to determine the appeal’s potential amenability to settlement through alternative dispute resolution or other means, and to identify the issues for resolution in this appeal. Scheduling Order, ¶ 3.

My May 28th Scheduling Order required the petitioner to make a good faith attempt to settle the appeal with the other parties to the case well in advance of the July 8th Pre-Screening Conference, and to file various documents with MassDEP’s Office of Appeals and Dispute

¹ Kathleen Borsari and the late Laurence P. Harrington also brought a separate appeal challenging the SOC. See OADR Docket No. 2003-109. On June 11, 2008, Ms. Borsari informed MassDEP’s Office of Appeals and Dispute Resolution that she was dropping the appeal.

² The “Respondents” are the Department and the applicant.

³ The provisions of 310 CMR 1.01(5)(a)15 are discussed below at pp. 7-9.

Resolution (“OADR”)⁴ at least three (3) business days prior to the Conference evidencing the petitioner’s good faith settlement efforts and setting forth her positions in this appeal.⁵

Specifically:

Paragraph 3 of the Scheduling Order required the petitioner “to initiate . . . settlement discussions [with the other parties] at least ten (10) calendar days prior to the Pre-Screening Conference.”

Paragraph 5 of the Scheduling Order, required the petitioner to file with OADR, “[n]o later than (3) business days prior to the scheduled Pre-Screening Conference, . . . a written statement with OADR confirming that [the petitioner had] initiated and conducted settlement discussions with the other parties to this appeal in accordance with th[e] Scheduling Order.” The petitioner’s statement was to “set forth the time, date, location and duration of the settlement discussions; who was present for each party; and whether the parties reached a settlement of the

⁴ OADR is separate and independent of MassDEP’s program offices, Regional Offices, and Office of General Counsel (“OGC”). OADR is staffed by a Case Administrator, an Administrator of Alternative Dispute Resolution (“ADR”), and Presiding Officers. A Chief Presiding Officer, who reports to MassDEP’s Commissioner, supervises Presiding Officers and other OADR staff.

Presiding Officers in OADR are experienced attorneys at MassDEP appointed by MassDEP’s Commissioner to serve as neutral hearing officers, and are responsible for facilitating settlement discussions between the parties in administrative appeals, and to resolve appeals by conducting hearings and making Recommended Final Decisions on appeals. See 310 CMR 1.01(1)(a); 310 CMR 1.01(1)(b); 310 CMR 1.01(5)(a)15. Under 310 CMR 1.03(7), Ex Parte communications between OADR’s Presiding Officers and MassDEP personnel regarding a pending appeal are expressly prohibited and all MassDEP staff involved in the appeals process are informed of these requirements. Additionally, Recommended Final Decisions of Presiding Officers in appeals are subject to review by MassDEP’s Commissioner pursuant to 310 CMR 1.01(14). Under the regulation, the Commissioner may issue a Final Decision adopting, modifying, or rejecting a Recommended Final Decision. All Final Decisions are subject to judicial review pursuant to G.L. c. 30A, § 14. These provisions ensure that the appeal process at MassDEP will be fair and will result in unbiased decision-making.

⁵ As the party challenging the SOC, the petitioner has the burden of proof on all issues, including whether she has standing to appeal the SOC as an “aggrieved person” and whether the Department improperly issued the SOC. See 310 CMR 10.03(2); 310 CMR 10.04; 310 CMR 10.05(7)(j)2.b.iv; 310 CMR 10.05(7)(j)2.b.v; 310 CMR 10.05(7)(j)3.a; 310 CMR 10.05(7)(j)3.b. This means that the petitioner must “produce at least some credible evidence from a competent source in support of [the petitioner’s] position[s].” 310 CMR 10.03(2); 310 CMR 10.04; 310 CMR 10.05(7)(j)3.b. Indeed, in challenging MassDEP’s factual determinations in the SOC, the petitioner must present “credible evidence from a competent source in support of each claim of factual error, including any relevant expert report(s), plan(s), or photograph(s).” 310 CMR 10.05(7)(j)3.c.

appeal. . . .” Scheduling Order, ¶ 5. The petitioner was also required to file at the same time, a Pre-Hearing Statement if the appeal had not been settled. Scheduling Order, ¶¶ 5 and 6. The Pre-Hearing Statement was to contain the following information:

- (1) a brief summary of the SOC being appealed in this case;
- (2) a brief summary of the final relief that the petitioner was seeking in this appeal;
- (3) a list of disputed relevant facts for resolution in this appeal and the petitioner’s position on each issue (what the petitioner expected to prove at the Hearing on the appeal);
- (4) a list of legal issues for resolution in this appeal, and the petitioner’s position on the issue;
- (5) the names and addresses of the petitioner’s witnesses, including expert witnesses, who would be filing Pre-filed Testimony.

Scheduling Order, ¶ 6.

The third business day prior to the July 8th Pre-Screening Conference was Wednesday, July 2, 2008, and, accordingly, that was the deadline for the petitioner to file the settlement and Pre-Hearing Statements required by ¶¶ 3, 5, and 6 of the Scheduling Order. The petitioner did not file the settlement and Pre-Hearing Statements by that date or thereafter. At no time prior to the Pre-Screening Conference did the petitioner request additional time to file the required documents nor did she bring to my attention any inability to comply with the directives of the Scheduling Order. The applicant and the Department, however, did file a comprehensive Joint Pre-Hearing Statement setting forth the possible issues for resolution in the case, and the names of their respective witnesses, including expert witnesses, who would file Pre-filed Testimony and testify at the scheduled October 7, 2008 Hearing on the Merits.

The Scheduling Order made clear that “[t]he failure of any party to . . . comply with any

requirements of th[e] Order w[ould] result in the imposition of appropriate sanctions on that party pursuant to 310 CMR 1.01(10).” Scheduling Order, ¶ 4.⁶ The Scheduling Order also put the petitioner on notice that the range of sanctions for her non-compliance with the Scheduling Order, included dismissal of her appeal. Id.

At the July 8th Pre-Screening Conference, I brought the petitioner’s failure to comply with the Scheduling Order to her attention, and I informed her that her failure to comply was a serious infraction warranting dismissal of her appeal. I informed her that although I could dismiss her appeal, I would exercise my discretion and allow her appeal to proceed so that it could be resolved on the merits. I warned her, however, that I would dismiss her appeal in the future if she failed to comply with any other orders of the Presiding Officer. The petitioner apologized for her failure to comply with the Scheduling Order.

The next topic of discussion at the Pre-Screening Conference was potential settlement of this appeal by agreement of the parties. After the parties presented summaries of their respective positions in the appeal, they and I concluded that settlement of this appeal by agreement of the parties was not possible at that time because the parties were far apart in their respective positions. As a result, I adopted a schedule for resolution of the appeal at an evidentiary Hearing to be held on October 7, 2008. See Pre-Screening Conference Report and Order, at pp. 6-7. The Hearing was to resolve one issue:

Whether the applicant’s proposed Project meets the Department’s stormwater management standards for work proposed within the jurisdiction of the Wetlands Protection Act?

Id., at p. 5.

⁶ The provisions of 310 CMR 1.01(10) are discussed below at p. 10.

Under the schedule that I adopted on July 8th, the parties were required to file Pre-filed Testimony of wetlands experts addressing the issue for resolution in the appeal. Id., at pp. 5-7. Under the schedule, the Pre-filed testimony of petitioner's wetlands expert was due for filing by August 22, 2008, and the Pre-filed testimony of the Respondents' wetlands experts was due for filing by September 22, 2008. Id., at pp. 6-7. The schedule made clear that "[a]ny party who fail[ed] to file any required materials in accordance with the schedule [would] be subject to sanctions pursuant to 310 CMR 1.01(10)." Id., at p. 5.

To date, the petitioner has not filed any Pre-filed Testimony. The deadline for her file Pre-filed Testimony expired nearly three months ago on August 22, 2008. On August 21, 2008, the petitioner led the Respondents to believe that she was withdrawing this appeal. See Respondents' Joint Request to Submit a Joint Stipulation of Dismissal and proposed Final Order of Conditions, August 25, 2008. As a result, on August 25, 2008, the Respondents filed a Joint Request to Submit a Joint Stipulation of Dismissal and proposed Final Order of Conditions ("FOC") for MassDEP's Commissioner to incorporate in a Final Decision in this appeal. Id. The Respondents requested that they have until September 12, 2008 to file to the proposed FOC. The Respondents indicated that the proposed FOC would incorporate minor revisions to the applicant's plans for the Project that were approved by the Norfolk Conservation Commission when it approved the Project in 2007 under Norfolk's Wetlands By-Law. Id.

On September 9, 2008, OADR received a letter dated August 18, 2008 from the petitioner confirming her withdrawal of this appeal but opposing the issuance of an FOC because of alleged stormwater issues. To date, the petitioner has not supported her claims with any Pre-filed Testimony.

On September 12, 2008, the Respondents requested an extension of time to file the

proposed FOC and Stipulation of Dismissal by September 22, 2008. The petitioner did not file a response or opposition to that motion.

On October 6, 2008, I cancelled the evidentiary Hearing that was previously scheduled for October 7, 2008, and directed the Respondents to file a proposed FOC with OADR by October 20, 2008. In light of the petitioner's August 18, 2008 correspondence as discussed above, on October 6, 2008, I also directed the petitioner to file a statement with OADR by October 30, 2008 "establish[ing] why the [Respondents'] agreement [to resolve this appeal in the manner that they have proposed] is inconsistent with law." See 310 CMR 1.01(8)(c).

With my assent and due to the personal circumstances of the Department's counsel, the Respondents filed the proposed FOC on October 21, 2008. On October 30, 2008, OADR received a letter dated October 28, 2008 from the petitioner in which she continued to oppose issuance of the FOC. As grounds for her opposition, the petitioner asserted alleged stormwater issues and purported issues involving coastal wetland regulation, land elevation, and water quality. To date, the petitioner has not supported her claims with any Pre-filed Testimony.

DISCUSSION

I. THE PETITIONER'S APPEAL SHOULD BE DISMISSED PURSUANT TO 310 CMR 1.01(10) DUE TO THE PETITIONER'S FAILURE TO FILE PRE-FILED TESTIMONY IN SUPPORT OF HER CLAIMS.

The Rules of Adjudicatory Procedure at 310 CMR 1.01 ("the Adjudicatory Rules") govern this appeal's resolution and accord Presiding Officers broad authority to resolve appeals. Specifically, under 310 CMR 1.01(5)(a), "[t]he Presiding Officer may, on [his or her] own initiative or a party's motion where appropriate, *without limitation*":

1. conduct adjudicatory hearings; . . .
4. conduct evidentiary hearings where necessary to resolve an issue in dispute;

5. issue orders to show cause;
6. impose sanctions under 310 CMR 1.01(10);
7. request from the parties a statement of the issues in dispute and then define the issues to be adjudicated; . . .
10. impose limits on the presentation of evidence in accordance with 310 CMR 1.01(13)(d), (e) and (f); . . .
13. manage the presentation of the evidence and participation of the parties so as to develop an adequate and comprehensible record of the adjudicatory appeal; . . .[and]
15. prescreen appeals and determine their potential amenability to settlement through alternative dispute resolution and early resolution through motions to dismiss. . . .

310 CMR 1.01(5)(a).

As noted above, under 310 CMR 1.01(5)(a)15, a Presiding Officer has the power to “prescreen appeals and determine their potential amenability to settlement through alternative dispute resolution and early resolution through motions to dismiss.” The regulation provides that the Presiding Officer’s pre-screening authority includes, “*without limitation*,” the power to conduct a pre-screening conference with the parties to the appeal to discuss potential settlement of the appeal and the issues for resolution in the appeal if it cannot be settled by agreement of the parties. 310 CMR 1.01(5)(a)15a-15d (emphasis supplied).

To assist the Presiding Officer in identifying the issues for resolution in the appeal and managing the proceedings in the appeal, the Presiding Officer’s pre-screening authority includes the power to “issu[e] orders to parties, *including without limitation*, ordering parties to show cause, ordering parties to . . . atten[d] prescreening conferences[,]⁷ and ordering parties to

⁷ In Wetlands Permit Appeals filed on or after October 31, 2007, the Presiding Officer is required to conduct a Pre-Screening Conference within 30 days after the appeal’s filing and conduct an Adjudicatory Hearing within 120 days after the appeal’s filing. 310 CMR 10.05(7)(j)7.a and 7.b. “All parties must attend [the pre-screening conference] and be prepared to discuss settlement and the narrowing of issues” for resolution at the subsequent evidentiary

provide more definite statements in support of their positions.” 310 CMR 1.01(5)(a)15d (emphasis supplied). It also includes the power to require the parties to file a Pre-hearing Statement setting forth their respective positions in the case, including, but not limited to:

- a concise summary of the evidence that will be offered by the parties;
- the facts agreed upon by the parties;
- contested issues of fact and law; and
- a list of witnesses to be called, including the designation of those who will be offered as expert witnesses, and a brief summary of the testimony of each witness.

310 CMR 1.01(5)(a)15a-15d. The same authority is granted by 310 CMR 1.01(9)(b); 310 CMR (12)(f); and 310 CMR 1.01(13).⁸

The broad case management authority of Presiding Officers under the Adjudicatory Rules is also evidenced by the Presiding Officers’ powers to enforce their orders or directives in cases. Under 310 CMR 1.01(11)(a)2.f, a “Presiding Officer may summarily dismiss a case *sua sponte*,”

hearing. 310 CMR 10.05(7)(j)7.g. For any appeal not resolved at the pre-screening conference, “the Presiding Officer [is required to issue] a pre-screening conference report . . . containing a list of issues that are in dispute and which are legally relevant, and that are to be addressed in the parties’ direct and rebuttal cases” for the hearing. *Id.*

⁸ The provisions of 310 CMR 1.01(9)(b) authorize the Presiding Officer to require parties to file Pre-hearing Statements setting forth their respective positions and witnesses in the case.

Under 310 CMR 1.01(12)(f), “[t]he Presiding Officer may order all parties to file within a reasonable time in advance of the hearing” the Pre-filed testimony of their respective witnesses “subject to the penalties of perjury.” Pre-filed testimony is defined as “the full written text of the testimony of th[e] [parties’] witnesses on direct examination, including all exhibits to be offered in evidence.” 310 CMR 1.01(12)(f). “The Presiding Officer may also require the filing of written rebuttal testimony within a reasonable time after the filing of the direct testimony. . . .” *Id.* In Wetland Permit Appeals filed on or after October 31, 2007, the time table for filing Pre-filed Testimony is fixed by regulation. See 310 CMR 10.05(7)(j)3 through 10.05(7)(j)6. The petitioners’ Pre-filed Testimony in those cases is due 45 days after the Pre-Screening Conference and the respondents’ Pre-filed Testimony is due 30 days thereafter. *Id.*

The provisions of 310 CMR 1.01(13) set forth the purpose of the Adjudicatory Hearing: the cross-examination of individuals (“witnesses”) who have filed Pre-filed Testimony on behalf of the parties in this case, and not to give direct testimony. See 310 CMR 1.01(13)(h)3. Under the regulation, parties do not have an unlimited period of time to cross-examine witnesses because the Presiding Officer may establish time limits on cross-examination. 310 CMR 1.01(13)(d)1. The regulation also provides that re-direct examination of witnesses following their cross-examination is not permitted unless authorized by the Presiding Officer, and “[i]f redirect examination is allowed by the Presiding Officer, it shall be limited to the scope of cross-examination.” 310 CMR 1.01(13)(h)3.

when the petitioner fails to prosecute the appeal or fails to comply with an order issued by the Presiding Officer. For the same reasons, the Presiding Officer may also dismiss an appeal pursuant to 310 CMR 1.01(5)(a)15 and 310 CMR 1.01(10)(e).

The Presiding Officer may also impose sanctions on a party where “[the] party . . . demonstrates an intention to delay the proceeding[s] or resolution of the proceedings” in an appeal. 310 CMR 1.01(10). This includes a party who files pleadings or other papers in an appeal “interposed for delay.” 310 CMR 1.01(4)(b).

The range of sanctions that a Presiding Officer may impose on a party, include, “without limitation,” an order:

- (a) designating facts or issues as established against the party being sanctioned;
- (b) prohibiting the party being sanctioned from supporting or opposing designated claims or defenses, or introducing designated matters into evidence;
- (c) denying summarily late-filed motions or motions failing to comply with 310 CMR 1.01(4);
- (d) striking pleadings in whole or in part;⁹
- (e) dismissing the appeal as to some or all of the disputed issues;
- (f) dismissing the party being sanctioned from the appeal; and/or
- (g) issuing a final decision against the party being sanctioned.

310 CMR 1.01(10).

In this case, as discussed above at pp. 2-7, on July 8, 2008, I established a schedule for resolution of this appeal that included dates for the parties to file Pre-filed testimony of wetlands

⁹ Under 310 CMR 1.01(11)(c), “the Presiding Officer may [also] strike from a pleading any insufficient allegation or defense or any redundant, irrelevant, immaterial, impertinent or scandalous matter.”

experts in support of the parties' respective positions in the case. Under the schedule, the Pre-filed testimony of petitioner's wetlands expert was due for filing by August 22, 2008. The petitioner did not file any Pre-filed Testimony by the August 22nd deadline or thereafter.

On August 21, 2008, the day before her Pre-filed Testimony was due, the petitioner led the Respondents to believe that she was withdrawing this appeal. Relying on that representation, on August 25, 2008, the Respondents filed a Joint Request to Submit a Joint Stipulation of Dismissal and proposed FOC for the Department's Commissioner to incorporate in a Final Decision in this appeal. The proposed FOC incorporates minor revisions to the applicant's plans for the Project that were approved by the Norfolk Conservation Commission when it approved the Project in 2007 under Norfolk's Wetlands By-Law.

The petitioner, however, reversed her position to conclude this litigation because she opposes issuance of the FOC. On September 9, 2008, she opposed issuance of the FOC because of alleged stormwater issues. On October 28, 2008, she expanded her opposition to include purported issues involving coastal wetland regulation, land elevation, and water quality. To date, the petitioner has not supported her claims with any Pre-filed Testimony from wetlands experts.

The petitioner's failure to support her claims with Pre-filed Testimony from wetlands experts is not the first time in this appeal that the petitioner has failed to support her claims. As discussed above at pp. 2-7, the petitioner failed to comply with my initial Scheduling Order of May 28, 2008 requiring the petitioner to make a good faith attempt to settle the appeal with the other parties to the case well in advance of the July 8th Pre-Screening Conference, and to file various documents with OADR at least three (3) business days prior to the Conference evidencing the petitioner's good faith settlement efforts and setting forth her positions in this

appeal. Although I excused that infraction, I nevertheless warned the petitioner at the July 8th Pre-Screening Conference that that I would dismiss her appeal in the future if she failed to comply with any other orders that I issued in the case.

Dismissal of the petitioner's appeal is well within the range of remedial measures authorized by 310 CMR 1.01(10)(e) and 310 CMR 1.01(11)(a)2.f for failure to prosecute an appeal or failure to comply with an order issued by the Presiding Officer. The petitioner has both failed to prosecute her appeal and comply with my directives by failing to file Pre-filed Testimony. Accordingly, I recommend that the Department's Commissioner issue a Final Decision dismissing this appeal pursuant to 310 CMR 1.01(10)(e) and 310 CMR 1.01(11)(a)2.f.

II. THE PETITIONER HAS FAILED TO DEMONSTRATE THAT THE RESPONDENTS' PROPOSED RESOLUTION OF THE APPEAL VIOLATES THE MWPA AND WETLANDS REGULATIONS.

The Commissioner's issuance of a Final Decision dismissing this appeal due to the petitioner's failure to demonstrate that the Respondents' proposed resolution of the appeal violates the MWPA and the Wetlands Regulations would also be appropriate. The provisions of 310 CMR 1.01(8)(c) provide in relevant part as follows:

(c) Settlements. Whenever all parties to the adjudicatory appeal agree to dispose of it by stipulation, settlement, or consent order, the parties shall put such agreement in writing and submit it to the Department, with a copy to the Presiding Officer. Each agreement shall include a provision that if the agreement is approved, the parties waive whatever rights they have to further administrative review before the Department as well as an appeal to court. If the Commissioner approves the proposed agreement, the Commissioner shall issue in writing a final decision incorporating the agreement of the parties. . . .

The regulation also provides that:

If a party will not sign a stipulation, settlement or consent order that the Department agrees to sign, the burden of going forward to establish why the

agreement is inconsistent with law may be placed upon that party by the Presiding Officer

Here, as discussed above at pp. 6-7, the petitioner refuses to assent to the Respondents' proposed resolution of this appeal: the filing of an FOC that incorporates minor revisions to the applicant's plans for the Project that were approved by the Norfolk Conservation Commission when it approved the Project in 2007 under Norfolk's Wetlands By-Law. The petitioner, however, has failed to demonstrate that this proposed resolution "is inconsistent with law." 310 CMR 1.01(8)(c). Specifically, the petitioner has failed to file the Pre-filed Testimony of a wetlands expert demonstrating that the proposed FOC violates the MWPA and the Wetlands Regulations. In sum, the petitioner has failed to meet her burden under 310 CMR 1.01(8)(c), and, accordingly, I recommend that the Department's Commissioner issue a Final Decision dismissing this appeal and approving the FOC.

CONCLUSION

For the reasons set forth above, I recommend that the Department's Commissioner issue a Final Decision dismissing this appeal due to the petitioner's (1) failure to file Pre-filed testimony in support of her claims, See 310 CMR 1.01(10); 310 CMR 1.01(11)(a)2.f, and (2) failure to "establish [that] the [Respondents'] agreement [to resolve this appeal in the manner that they have proposed] is inconsistent with law." See 310 CMR 1.01(8)(c).

NOTICE- RECOMMENDED FINAL DECISION

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is

subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Date: _____

Salvatore M. Giorlandino
Chief Presiding Officer

SERVICE LIST

In Re: Pine Creek Development Corp.
Docket No. 2003-107, File No. 240-370

Representative

Richard A. Nylen, Jr., Esq.
Lynch, DeSimone & Nylen, LLP
12 Post Office Square, Suite 600
Boston, MA 02109
rnylen@ldnllp.com

APPLICANT
Pine Creek Development Corp.

Joanne Yatsushashi
7 Old Colony Drive
Norfolk, MA 02056

PETITIONER
Abutter (2003-107)

George A. Hall, Jr., Esq.
Anderson & Kreiger, LLP
One Canal Park, Suite 200
Cambridge, MA 02141-1764
GHall@AndersonKreiger.com

CONCOM
Norfolk Conservation Commission

Deidre C. Desmond, Esq.
DEP – Office of General Counsel
One Winter Street, 3rd Floor
Boston, MA 02108
Deirdre.Desmond@state.ma.us

DEPARTMENT
Dept. of Environmental Protection

Heidi Davis, Wetlands Analyst
MassDEP/NERO
205B Lowell Street
Wilmington, Massachusetts 01887
Heidi.Davis@state.ma.us

DEPARTMENT
Dept. of Environmental Protection

Pamela Merrill, Wetlands Analyst
MassDEP/NERO
205B Lowell Street
Wilmington, Massachusetts 01887
Pamela.Merrill@state.ma.us

DEPARTMENT
Dept. of Environmental Protection